

# Notice of Agency Rule-making Proposal

**AGENCY:** Office of Licensing and Registration, Board of Real Estate Appraisers

**RULE TITLE OR SUBJECT:**

Chapter 100, General Information .....Repeal  
Chapter 110, Fees.....Repeal  
Chapter 160, Complaints and Investigations .....Repeal  
Chapter 200, Prerequisites to Licensure .....Repeal  
Chapter 210, Continuing Education.....Repeal  
Chapter 220, Educational Course Requirements .....Repeal and Replace  
Chapter 230, Supervising Appraiser Duties.....Repeal and Replace  
Chapter 250, Denial Appeals; Member Communications New

**PROPOSED RULE NUMBER:** 98-P

(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE):

**CONCISE SUMMARY** (UNDERSTANDABLE BY AVERAGE CITIZEN):

*Generally*

This rulemaking proceeding was prompted by changes in real estate appraiser licensure criteria adopted by the Appraiser Qualifications Board, and conforming changes to the Real Estate Appraisal Licensing and Certification Act, 32 MRSA §14001 et seq., made by PL 2005, c. 518.

*Chapter 100, General Information*

(Repeal) Sections 1 and 2 are housekeeping provisions that need not be in rule. The substance of Section 3 appears in 32 MRSA §14011(6) and need not be repeated in rule.

*Chapter 110, Fees*

(Repeal) License fees are now set by the Director of the Office of Licensing and Registration pursuant to 10 MRSA §8003(2-A)(D). The board's fees appear in Chapter 10, Section 4(34) of OLR's rules.

*Chapter 160, Complaints and Investigations*

(Repeal) The investigation procedures of Sections 1 and 2 are unnecessary in that the board follows the Uniform Administrative Complaint Procedure in place for all the OLR licensing programs. However, the statement in Section 5 that the board will expressly follow the Uniform Administrative Complaint Procedure is inadvisable, as such a statement may be construed as binding the board to follow that procedure. (The procedure itself is not a rule.) Updated versions of Sections 2 and 3 have been relocated to new Chapter 250.

*Chapter 200, Prerequisites to Licensure*

(Repeal) Title 32 MRSA §§14035 - 14038 and the AQB 2008 Real Property Appraiser Qualification Criteria contain all necessary criteria relating to education and experience.

*Chapter 210, Continuing Education*

(Repeal) Title 32 MRSA §14027(1) incorporates by reference the 28 hour continuing education requirement in the AQB 2008 Real Property Appraiser Qualifications Criteria and specifically references the 7-hour USPAP update course that is part of the 28 hour requirement. Although a pre-amendment sentence in §14027(1) authorizes the board to also adopt a core continuing education requirement, the 7-hour USPAP update functions as that core. The AQB criteria contain examples of appropriate subjects for continuing education, but do not contain a core continuing education curriculum beyond the 7-hour USPAP update. In the board's view, no additional core continuing education is necessary.

*Chapter 220, Educational Course Requirements*

(Repeal and replace) Title 32 MRSA §§14035 – 14038 incorporate by reference the core curricula for qualifying education contained in the AQB criteria. The AQB maintains a course approval program that reviews educational programs for compliance with the AQB criteria. 32 MRSA §14012(5) permits the board to adopt course approval rules. This repeal and replace of Chapter 220 requires that only qualifying educational programs approved by the AQB will be recognized by the board. 32 MRSA §14027(2) requires the board to adopt rules for the submission of continuing education courses. This repeal and replace of Chapter 220 requires that continuing education courses be submitted to the AQB for review.

*Chapter 230, Supervising Appraiser Duties*

(Repeal and replace) The new version of this chapter provides that only a certified residential or certified general real property appraiser may supervise a trainee real property appraiser; requires the supervising appraiser to make the determination of trainee competency in writing; requires the supervising appraiser to identify the appraisals on which the supervising appraiser accompanied the trainee; and provides a mechanism for the determination of competency where a trainee has had a succession of supervising appraisers, or multiple concurrent supervising appraisers.

*Chapter 250, Denial Appeals; Member Communications*

(New) This chapter establishes a 30-day time period for an unsuccessful applicant to appeal a denial of licensure. This chapter also carries forward updated versions of Sections 3 and 4 of former Chapter 160 of the board's rules.

**THIS RULE WILL ☐ WILL NOT ☒ HAVE A FISCAL IMPACT ON MUNICIPALITIES.**

**STATUTORY AUTHORITY:** 32 MRSA §§14012 and 14027

**PUBLIC HEARING):**

(IF ANY, GIVE DATE, TIME, LOCATION)

11:00 a.m., September 11, 2007, Department of Professional and Financial Regulation, 122 Northern Avenue, Gardiner, Maine

**DEADLINE FOR COMMENTS:** September 21, 2007

**AGENCY CONTACT PERSON:** Carol Leighton, Board Administrator

**AGENCY NAME:** Office of Licensing and Registration

**ADDRESS:** 35 State House Station, Augusta, ME 04333

**TELEPHONE:** (207) 624-8520

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Please approve bottom portion of this form and  
assign appropriate MFASIS number.

APPROVED FOR PAYMENT \_\_\_\_\_ DATE: \_\_\_\_\_  
*Authorized signature*

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
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Chapter 100: GENERAL INFORMATION

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SUMMARY: This rule establishes guidelines relating to meetings, agendas, maintenance of records.

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Section 1. ~~Meetings~~

- A. ~~An agenda for meetings shall be prepared by the Department and shall include business requiring consideration or action by the members. The agenda shall also include all business items requested by the members provided such request is received at least seven (7) days in advance of the meeting.~~
- B. ~~Business not included on the agenda may be considered following an affirmative vote of a majority of the members present.~~

Section 2. ~~Records~~

- A. ~~The Commissioner shall have custody of the Board seal. The Department shall maintain a record of all business conducted by the Board and shall preserve, subject to the provisions of 5 M.R.S.A. Chapter 6, all books, documents and papers entrusted to its care. Records shall be open to public inspection subject to 1 M.R.S.A. Chapter 13. Delays in making records available for inspection may be occasioned by action necessary to preserve the security of records, to obtain legal advice, or to avoid disrupting regular business activities and for these reasons it is recommended that requests be submitted three (3) business days in advance of anticipated inspection.~~
- B. ~~Access to written communication with the Department of the Attorney General, criminal history records, materials related to license examinations, pending complaints, and other records may be restricted subject to 1 M.R.S.A. Chapter 13.~~

Section 3. ~~Officers~~

~~The Chairperson shall be elected by the Board members at the first meeting of each year. The Board may also elect other officers as the Board deems necessary.~~

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STATUTORY AUTHORITY: 32 M.R.S.A., Chapter 124 §14012

EFFECTIVE DATE:

November 24, 1990

AMENDED:

January 3, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

October 22, 1996

REPEALED AND REPLACED:

September 18, 1999

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

298 BOARD OF REAL ESTATE APPRAISERS

Chapter 110: FEES

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SUMMARY: This rule establishes fees charged by the Board for examination, application, licensing, education, certification, and miscellaneous fees.

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~~FEES ARE NON REFUNDABLE~~

Section 1. ~~Examination Fees~~ Fees are set by  
~~examination vendor~~

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Section 2. ~~Application Fee~~ \$ 50.00

Section 3. ~~Original License Fees~~

~~A. Appraiser Trainee \$100.00~~

~~B. Real Property Appraiser \$150.00~~

~~C. Certified Residential Real Property Appraiser \$150.00~~

~~D. Certified General Real Property Appraiser \$150.00~~

~~E. Temporary License \$100.00~~

Section 4. ~~Biennial Renewal License Fees~~

~~A. Appraiser Trainee \$100.00~~

~~B. Real Property Appraiser \$150.00~~

~~C. Certified Residential Real Property Appraiser \$150.00~~

~~D. Certified General Real Property Appraiser \$150.00~~

**Section 5. — Education Fees**

<del>A.</del>	<del>Original Continuing Education Course Application</del>	<del>\$ 50.00</del>
<del>B.</del>	<del>Renewal Continuing Education Course Application</del>	<del>\$ 25.00</del>
<del>C.</del>	<del>Continuing Education Individual Course Request</del>	<del>\$ 10.00</del>
<del>D.</del>	<del>Original Qualifying Education Course Application</del>	<del>\$ 50.00</del>
<del>E.</del>	<del>Renewal Qualifying Education Course Application</del>	<del>\$ 25.00</del>
<del>F.</del>	<del>Qualifying Education Individual Course Request</del>	<del>\$ 10.00</del>

**Section 6. — Miscellaneous Fees**

<del>A.</del>	<del>Duplicate license</del>	<del>\$ 10.00</del>
<del>B.</del>	<del>Certification of License Status</del>	<del>\$ 10.00</del>
<del>C.</del>	<del>Renewal Late Fee</del>	<del>\$ 50.00</del>

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STATUTORY AUTHORITY: 32 M.R.S.A., Chapter 124, §14012

EFFECTIVE DATE:

November 29, 1990

AMENDED:

December 13, 1993

January 3, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

October 22, 1996

REPEALED AND REPLACED:

September 18, 1999

Chapter 160: COMPLAINTS AND INVESTIGATIONS

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SUMMARY: This rule establishes guidelines and procedures for filing complaints, conducting investigations and disposition of matters following investigations.

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~~Section 1. — Written Complaints~~

~~— A copy of a written, signed complaint alleging activities in violation of 32 M.R.S.A. Chapter 124 or concerning the qualifications of any Board licensee, shall be sent by regular mail to the last known address of the person against whom the complaint is filed together with a request for a written response to the allegation. The investigation may also include such other inquiries as may be deemed appropriate in order to complete the processing of the complaint according to the provisions of 32 M.R.S.A. Section 14014 or 14023.~~

~~Section 2. — Other Investigations~~

~~— An investigation may be conducted based upon information other than a written complaint if such information provides prima facie evidence of a violation of 32 M.R.S.A. Chapter 124, or if the information raises a substantial question regarding the qualifications of any applicant or licensee.~~

~~Section 3. — Member Request for Investigation~~

~~— A member of the Board may file a complaint or request an investigation, but such complaint or request shall serve to disqualify the member from participating in a hearing or a consent agreement regarding the matter. That member shall be prohibited from discussing the issue with other members, except as a witness or party, until after final agency action and the time for appeal has lapsed or appeal rights have been exhausted.~~

~~Section 4. — Prohibited Communications~~

~~— The members shall avoid discussing, except with adequate notice and opportunity for all parties to participate, any specific case under investigation, or any case which may reasonably be expected to be the subject of investigation, until after final agency action and the time for filing an appeal has lapsed or appeal remedies have been exhausted, except in accordance with the Standard Complaint Procedure of the Department of Professional and Financial Regulation's Office of Licensing and Registration.~~



~~———— This rule shall not be construed to limit the members at Board meetings from discussion among themselves or with the attorney for the Board. These rules shall not be construed to limit communications regarding closed matters, investigations in general, inquiries regarding the status of a specific case, or other matters not relating to issues of fact or law concerning a specific case.~~

~~Section 5. — Complaint Procedure~~

~~———— The Board will follow the procedure for processing complaints set forth in the Standard Complaint Procedure of the Department of Professional and Financial Regulation's Office of Licensing and Registration.~~

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STATUTORY AUTHORITY: 32 M.R.S.A., Chapter 124, §14012

EFFECTIVE DATE:

November 24, 1990

EFFECTIVE DATE (ELECTRONIC CONVERSION):

October 22, 1996

AMENDED:

September 18, 1999

SUMMARY: This rule sets forth the guidelines for licensure.

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~~Section 1. General Educational Qualifications~~

- ~~A. Minimum Educational Hours. All applicants must meet the minimum classroom hours of licensure as set by the Board. For purposes of obtaining the required classroom hours, the hours are cumulative.~~
- ~~B. Proof of Completion. The course sponsor shall provide a course transcript to students successfully completing the course of study. Such transcript shall, at a minimum, include the course title, number of classroom hours completed, student's name, beginning and end date of course, and be signed by the course sponsor.~~
- ~~C. Examination.~~
  - ~~1. Passing Score. A minimum grade of 75% shall be required to pass the examination required for licensed real property appraisers, certified residential real property appraisers and certified general real property appraisers.~~
  - ~~2. Expiration of License Examination Results. An applicant shall apply for licensure within one (1) year of the date of passing the examination required at that level. In the absence of proper application for licensure, the applicant must qualify by new application and examination.~~

~~Section 2. Specific Educational Qualifications~~

~~A. Trainee Real Property Appraiser.~~

- ~~— An applicant for a trainee real property appraiser license must submit evidence of satisfactory completion of 75 classroom hours completed within the five (5) year period immediately preceding application for licensure.~~

~~B. Licensed Real Property Appraiser~~

~~— An applicant for a licensed real property appraiser license must:~~

- ~~1. Submit evidence of satisfactory completion of 90 classroom hours, and,~~
- ~~2. Pass an examination within one (1) year of notice of approval from the Board to sit for the examination.~~

~~C. Certified Residential Real Property Appraiser~~

~~— An applicant for a certified residential real property appraiser license must:~~

- ~~1. Submit evidence of satisfactory completion of 120 classroom hours, and~~
- ~~2. Pass an examination within one (1) year of notice of approval from the Board to sit for the examination.~~

~~D. Certified General Real Property Appraiser~~

~~— An applicant for a certified general real property appraiser license must:~~

- ~~1. Submit evidence of satisfactory completion of 180 classroom hours, and~~
- ~~2. Pass an examination within one (1) year of notice from the Board to sit for the examination.~~

~~Section 3. General Experience Requirement~~

~~A. The following list of work is deemed acceptable as work experience:~~

- ~~1. Fee and staff appraisal;~~
- ~~2. Review appraisal;~~
- ~~3. Real Estate Counseling;~~
- ~~4. Feasibility analysis;~~
- ~~5. Individual ad valorem tax appraisal;~~
- ~~6. Appraisal analysis;~~
- ~~7. Highest and best use analysis;~~

- ~~8. Assisting in the preparation of appraisals;~~
  - ~~9. Setting forth opinions of value of real property for tax purposes as an employee of an assessor's office or the board of equalization;~~
  - ~~10. Real estate valuation experience such as that of a real estate lending officer or a real estate licensee, but only to the extent that such experience is directly related to the actual performance or review of real estate appraisals; and/or,~~
  - ~~11. Other work experience deemed acceptable by the Board.~~
- ~~B. The following list of work is deemed unacceptable as work experience:~~
- ~~1. Market value estimates as a real estate licensee in connection with the listing and/or sale of real estate;~~
  - ~~2. Mass appraisals of real estate for ad valorem tax purposes (credit may be given for individual parcels for such purposes);~~
  - ~~3. Appraisals of personal property or other intangible assets;~~
  - ~~4. A feasibility or market analysis except to the extent that the applicant estimated the market value of the proposed real estate project; or~~
  - ~~5. Other work which may not be deemed acceptable by the Board.~~
- ~~C. All work experience documentation must be submitted on a form prescribed by the Board.~~
- ~~D. Work experience is cumulative.~~

#### ~~Section 4. Specific Work Experience~~

- ~~A. Licensed Real Property Appraiser. An applicant must complete a minimum of two thousand (2,000) hours of experience.~~
- ~~B. Certified Residential Real Property Appraiser.~~
- ~~1. Hours. An applicant must complete two thousand five hundred (2,500) hours of experience obtained during no fewer than 24 months.~~

~~2. Type of experience. An applicant must demonstrate some major residential work. The actual amount of major residential work will be based on the geographical location of the applicant and at the Board's determination. Major residential work experience generally includes:~~

~~a. Appraisals of residential property over \$1 million;~~

~~b. Appraisals of one to four unit residential properties over \$250,000; or~~

~~c. Appraisals of complex residential property.~~

~~C. Certified General Real Property Appraiser.~~

~~1. Hours. An applicant must complete three thousand (3,000) hours of experience obtained during no fewer than 30 months.~~

~~2. Type. An applicant must demonstrate at least 50% of the work experience in non residential appraisal work.~~

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STATUTORY AUTHORITY: 32 M.R.S.A., Chapter 124 §14012

EFFECTIVE DATE:

September 18, 1999

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

298 BOARD OF REAL ESTATE APPRAISERS

Chapter210: CONTINUING EDUCATION

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SUMMARY: This rule establishes guidelines relating to continuing education requirements for license renewal.

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~~Section 1. Continuing Education Hours Required.~~

~~As a prerequisite for renewal, license applicants must submit proof of completing twenty-eight (28) hours of continuing education completed within the previous biennium, except that a trainee real property appraiser is not required to complete continuing education during the first biennial license term.~~

~~Section 2. Core Course~~

~~Applicants for renewal beginning with those licenses expiring on December 31, 2000 and each renewal term thereafter must complete at a minimum seven (7) continuing education hours on the Uniform Standards of Professional Appraisal Practice to qualify for renewal.~~

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STATUTORY AUTHORITY: 32 M.R.S.A., Chapter 124 § 14012

EFFECTIVE DATE:  
September 18, 1999

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

298 BOARD OF REAL ESTATE APPRAISERS

Chapter 220 EDUCATIONAL COURSE REQUIREMENTS

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Summary: This chapter requires that qualifying education and continuing education be approved by the Appraiser Qualifications Board.

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1. Qualifying Education

Class hours required for licensure as a trainee real property appraiser, licensed residential real property appraiser, certified residential real property appraiser and certified general real property appraiser must be earned in courses approved by the Appraiser Qualifications Board. The Board of Real Estate Appraisers will not recognize non-approved courses for licensing purposes.

2. Continuing Education

Continuing education programs and courses must be submitted for review and approval to the Appraiser Qualifications Board under the criteria established by the Appraiser Qualifications Board. The Board of Real Estate Appraisers will not recognize continuing education programs and courses that are not approved by the Appraiser Qualifications Board.

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STATUTORY AUTHORITY: 32 MRSA §§14012 and 14027

EFFECTIVE DATE: JANUARY 1, 2008

## 02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

## 298 BOARD OF REAL ESTATE APPRAISERS

Chapter 230: SUPERVISING APPRAISER DUTIES

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**SUMMARY:** This rule establishes the supervisory responsibilities for a certified residential or certified general real property appraiser who supervises a trainee real property appraiser.

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## 1. Commencement and Termination of Supervisory Relationship

A certified residential or certified general real property appraiser shall notify the board in writing of the commencement or termination of a supervisory relationship with a trainee real property appraiser no later than ten days after the commencement or termination.

## 2. Duties

A. A supervising appraiser is responsible for the training and direct supervision of the trainee real property appraiser, including:

1. Accepting responsibility for the appraisal report by signing and certifying that the report is in compliance with the Uniform Standards of Professional Appraisal Practice;
2. Reviewing with the trainee real property appraisal report(s); and
3. Personally inspecting each appraised property with the trainee real property appraiser for the first 50 appraisals, at a minimum, and until the supervising appraiser determines the trainee is competent in accordance with the Competency Rule of the Uniform Standards of Professional Appraisal Practice for the property type. The supervising appraiser shall make this determination of competency in writing on a form provided by the board and shall submit the determination to the board no later than ten days thereafter.
4. In the event that the trainee had a series of supervising appraisers, the determination of competency described in Section 2(A)(3) of this chapter must be made by the trainee's most recent supervising appraiser on the basis of at least 25 appraisals (of the 50-appraisal minimum) on which the most recent supervising appraiser personally inspected the appraised property with the trainee. In extenuating circumstances, the board may



accept a determination of competency from a predecessor supervising appraiser.

5. In the event that the trainee had multiple concurrent supervising appraisers, the determination of competency described in Section 2(A)(3) of this chapter must be made by one of the concurrent supervising appraisers on the basis of at least 25 appraisals (of the 50-appraisal minimum) on which that supervisor personally inspected the appraised property with the trainee.

**B. Records and Reporting**

1. The supervising appraiser shall maintain accurate, up-to-date records of all the trainee's activities and a schedule of hours of work completed.
2. No later than the fifteenth day of each month, a supervising appraiser shall sign and submit a report to the board with respect to each trainee under the appraiser's supervision. The monthly report shall be made on a form prescribed by the Board and shall, at a minimum, include the following information for the preceding calendar month:
  - a. Type of property appraised;
  - b. Whether the supervising appraiser personally inspected the property with the trainee;
  - c. Client name and address;
  - d. Address of appraised property;
  - e. Description of work performed; and
  - f. Number of work hours.

If the trainee performed no reportable work, the monthly report shall so indicate.

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STATUTORY AUTHORITY: 32 MRSA §14012

EFFECTIVE DATE:

September 18, 1999

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

298 BOARD OF REAL ESTATE APPRAISERS

Chapter 250 DENIAL APPEALS; MEMBER COMMUNICATIONS

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Summary: This chapter sets forth a licensee's right to appeal certain board actions and limits board member communications during investigation and hearings.

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1. Appeal of License Denial

An applicant or licensee may appeal a license denial to the board by filing a request for hearing with the board in writing within 30 days of the applicant's or licensee's receipt of notice of the denial. An adjudicatory hearing will be scheduled upon receipt of a timely appeal. Non-timely appeals will be denied without hearing.

2. Member Request for Investigation

A member of the board, including the complaint officer, may file a complaint or request an investigation, but such complaint or request disqualifies the member from participating in the matter other than as a complainant, witness or complaint officer. The member may not discuss the issue with other members, except as a complainant, witness or complaint officer, until after final agency action and the time for appeal has lapsed or appeal rights have been exhausted.

3. Prohibited Communications

Members of the board shall avoid discussing, except with adequate notice and opportunity for all parties to participate, any specific case under investigation or hearing, or any case that may reasonably be expected to be the subject of investigation or hearing, until after final agency action and the time for appeal has lapsed or appeal rights have been exhausted.

This prohibition shall not be construed to limit the members at board meetings from discussion among themselves or with the attorney for the board. This prohibition shall not be construed to limit communications regarding closed matters, investigations in general, inquiries regarding the status of a specific case, or other matters not relating to issues of fact or law concerning a specific case.

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EFFECTIVE DATE: JANUARY 1, 2008